IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 16016 of 2004

Between:

K. Seethaiah, S/o Late Parsu Ramulu,
Bhyripuram Village, Meraka Mudidam Mandal,

Vizianagaram District.

..... PETITIONER

AND

1 The Joint Collector, Vizianagaram District.
2 The District Supply Officer, Vizianagaranm,

Vizianagaram District.
3 The Revenue Divisional Officer, Vizianagaram District.
4 The Mandal Revenue Officer, Merakamudidam Mandal,

Vizianagaram District.
5 P. Krishna Murthy, S/o P. Appala Suri,
Bhyripuram (V), Merakamudidam Mandal,

Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus, to declare the impugned order of the 1st respondent passed in R.C.No. 234/2004 G8, dt. 26-8-2004 and the order of the 2nd respondent passed in RC.No. 234/2004 G8 , dt. 26-8-2004 as illegal, arbitrary, against to the principles of natural justice and consequently set aside the same.

Counsel for the Petitioner: MR.TADDI NAGESWARA RAO

Counsel for the Respondents 1 to 4: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.5: Sri B.M.PATRO

The Court made the following :

ORDER:

A fair price shop dealer of Bhyripuram Village, Meraka Mudidam Mandal, Vizianagaram District challenges the order of the 2nd respondent-District Supply Officer, Vizianagaram District dated 26-08-2004, ordering bifurcation of the fair price shop in the village and the order of the 1st respondent- Joint Collector, Vizianagaram District also dated 26-08-2004, directing initiation of steps for notification of the additional shop for appointment of a new fair price shop dealer.

Initially, there was only one shop in the village, the authorization of which was issued to the petitioner. The number of ration cards allotted to the petitioner's shop are currently 686 cards including 588 white cards, 54 pink cards and 39 AAY cards apart from 5 Annapoorna cards. After bifurcation each of the shops would have 343 cards.

The impugned orders disclose that the bifurcation has been ordered on the basis of a representation of the Surpanch of the village the 5th respondent, that on account of the single shop in the village, the villagers have to wait for long periods in the queue and in the hot sun to buy the essential commodities. On this representation, the Mandal Revenue Officer concerned sent up proposals dated 13.07.2004, recommending for bifurcation of the shop. On the basis of the proposals, the 2nd respondent issued the impugned orders sanctioning the bifurcation and the 1st respondent directing notification calling for applications for the new shop.

Sri T.Nageshwara Rao, learned counsel for the petitioner contends that the bifurcation of the shop has been done by the official respondents arbitrarily, without due application of mind, contrary to the guidelines issued by the Government in the memo dated 22-01-1999, at the behest and under pressure of the Minister concerned and the Surpanch, who belong to a different political configuration.

The Government memo dated 22-01-1999, contains guidelines in the matter of opening new fair price shops. One of the guidelines is that the shops must be economically viable. On this aspect the guidelines record that in rural areas no new fair price shop should be sanctioned if the number of cards to be attached to the fair

price shop is less than 350. This memo also permits splitting up of shops for special reasons of dissidence, faction, certain social tensions between communities or due to caste or religious conflicts. However, the Collectors concerned may issue orders of splitting up after giving reasons for such sanction of new shops. Needless to mention that the special reasons enumerated in the Government memo dated 22-01-1999 are only illustrative but not conclusive. Some of the incidents of special reasons that could justify the splitting up of shops alone are enumerated. Such enumeration does not exhaust all categories of special reasons that would justify any administrative decision to split an existing fair price shop. In the case on hand, the Surpanch of the village as well as the Mandal Revenue Officer had sent up recommendations and proposals for bifurcation of the shop on the ground of difficulty to the villagers having regard to the people, number of shops and the need to wait in the queue for persons desirous of obtaining essential commodities.

Acceptance of the reasons contained in such recommendations or the proposals of the Mandal Revenue Officer by the Joint Collector and the consequent decision to bifurcate the shops does not, in the considered view of this Court, constitute an arbitrary or irrational exercise of power. True, it is, that the impugned order of the 2nd respondent dated 26-08-2004 does mention that proposals have also emanated from the Surpanch of the village addressed to the Hon'ble Minister. This reference by itself does not *ipso facto* vitiate the decision-making process. A Minister of the State Government having nexus with the area in question or the village Surpanch cannot be said to be interlopers to the administrative decision making process merely on account of being people's representatives. In fact, on occasions, it may be a part of the political obligation of such public representatives to represent the public grievances to the authorities in question for appropriate administrative decision.

In the case on hand the record discloses that the proposals sent up by the Mandal Revenue Officer reiterate the reasons set out in the representation of the Surpanch namely that there is a considerable amount of waiting for the villagers to get their supplies and in the hot sun, on account of the single fair price shop. These circumstances presumably weighed with the 1st respondent in according sanction for the bifurcation of the shop. The guidelines issued by the State Government qua the memo dated 22-01-1999 are merely administrative instructions structuring the discretion of the competent authorities in sanctioning bifurcation of shops. These

guidelines do not have an adjudicative predisposition *per se* nor a justifiable right is created only on the basis of these guidelines. In any view of the matter, the guidelines themselves have enough scope for exercise of the discretion, in the manner it was exercised by the official respondents.

On the above analysis, this Court sees no infirmity in the order impugned in the writ petition, bifurcating the existing shop into two or in notifying the newly created shop and to call for applications for its filling up. There are no merits in the writ petition. It is accordingly dismissed. No costs.

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Vs 14-12-2004

To

1 The Joint Collector, Vizianagaram District.
2 The District Supply Officer, Vizianagaranm,

Vizianagaram District.
3 The Revenue Divisional Officer, Vizianagaram District.
4 The Mandal Revenue Officer, Merakamudidam Mandal,

Vizianagaram District.
5 2 CCs to the G.P for Civil Supplies, High Court Buildings,

Hyderabad(O.U.T).

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